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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/833,845	04/11/2001	Vladimir Matena	SUNMP003	2223
25920	7590	08/25/2005	EXAMINER	
MARTINE PENILLA & GENCARELLA, LLP			YIGDALL, MICHAEL J	
710 LAKEWAY DRIVE			ART UNIT	PAPER NUMBER
SUITE 200				
SUNNYVALE, CA 94085			2192	

DATE MAILED: 08/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	09/833,845	MATENA ET AL.	
	Examiner	Art Unit	
	Michael J. Yigdall	2192	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 26 May 2005.  
 2a) This action is **FINAL**.                            2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1,4-8 and 10-13 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1,4-8 and 10-13 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____



**DETAILED ACTION**

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on May 26, 2005 has been entered. Claims 1, 4-8 and 10-13 are pending.

***Response to Arguments***

2. Applicant's arguments have been fully considered but they are not persuasive.

Applicant contends that Ma fails to disclose an application that includes an original service module and an original control module as well as an upgraded control module and an upgraded service module, and further contends that Ma fails to disclose an application, in the middle-tier, where modules are upgraded (Applicant's remarks, page 7, first paragraph).

However, Ma discloses an application (see, for example, server application 86 in FIG. 5 and installed application 66 in FIG. 3) that includes an original service module (see, for example, objects 82 in FIG. 5, and old object class 68' in FIG. 3) and an original control module (see, for example, workflow rules 81 in FIG. 5, and old object class 68' in FIG. 3) as well as an upgraded control module (see, for example, new object class 68 in FIG. 3) and an upgraded service module (see, for example, new object class 68 in FIG. 3). Furthermore, Ma expressly discloses that the modules are upgraded in the application (see, for example, column 6, lines 58-60, "modified class 68 is copied into installed application 66," and column 8, lines 25-27, "changes to server

objects 82 in server-side application 86"). The server application 86 is in server 90, which is a middle tier between remote client 88 and application database 64 (see, for example, FIG. 5).

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 4-8 and 10-13 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 5,920,725 to Ma et al. (art of record, "Ma").

With respect to claim 1 (currently amended), Ma discloses a method for performing an online upgrade to a JAVA application (see, for example, the abstract, which shows a method for performing an online upgrade to an application, and column 13, lines 18-39, which shows that the application is a JAVA application), the method comprising:

(a) executing an application in a middle-tier between a client browser and databases (see, for example, FIG. 5, which shows executing a server application 86 in a middle-tier server 90 between a remote client 88 and an application database 64), the application having an original service module and an original control module (see, for example, objects 92 and workflow rules 81, respectively, in FIG. 5), wherein the original control module includes application-specific policies for the application defining application-specific strategies and policies for the application (see, for example, column 8, lines 37-39), and the original service module includes actual code for the application (see, for example, column 13, lines 49-55);

(b) generating an upgraded control module defining upgraded application-specific policies relative to the original control module (see, for example, column 8, line 55), the upgraded control module being defined by upgraded class files (see, for example, new object class 68 in FIG. 3, and column 6, lines 58-60) loaded from a system repository that is part of the databases (see, for example, meta object database repository 62 in FIG. 3, and column 6, lines 39-40 and 52-55); and

(c) creating an upgraded service module using the upgraded control module (see, for example, column 8, lines 58-62), the upgraded service module is generated using upgraded class files for the upgraded service module loaded from the system repository (see, for example, new object class 68 and meta object database repository 62 in FIG. 3, and column 6, lines 31-34, 52-55 and 58-60), the application providing online execution services when upgrading the original control module and original service module (see, for example, column 4, lines 59-63, which shows that the application provides online execution services when upgrading the modules).

With respect to claim 4 (previously presented), the rejection of claim 1 is incorporated, and Ma further discloses the operation of disabling requests to the original service module (see, for example, column 7, lines 22-25 and 40-45, which shows disabling requests to the original objects by marking them as invalid and deleting them).

With respect to claim 5 (original), the rejection of claim 4 is incorporated, and Ma further discloses the operation of enabling requests to the upgraded service module (see, for example, column 7, lines 22-25 and 40-45, which shows enabling requests to the upgraded objects by loading and instantiating them).

With respect to claim 6 (original), the rejection of claim 1 is incorporated, and Ma further discloses the operation of upgrading a child application using the upgraded control module (see, for example, column 7, lines 46-51).

With respect to claim 7 (previously presented), the rejection of claim 6 is incorporated, and Ma further discloses the operation of passing the application-specific policies to a control module of the child application (see, for example, column 8, lines 20-25).

With respect to claim 8 (currently amended), Ma discloses a JAVA platform capable of performing online software upgrades (see, for example, the abstract, which shows a platform capable of performing online software upgrades, and column 13, lines 18-39, which shows that the platform is a JAVA platform), the JAVA platform comprising:

(a) an application in a middle-tier between a client browser and databases (see, for example, FIG. 5, which shows a server application 86 in a middle-tier server 90 between a remote client 88 and an application database 64), the application having an original service module and an original control module (see, for example, objects 92 and workflow rules 81, respectively, in FIG. 5), wherein the original control module includes application-specific policies for the application defining application-specific strategies and policies for the application (see, for example, column 8, lines 37-39), the original service module includes actual code for the application (see, for example, column 13, lines 49-55); and

(b) a repository that is part of the databases having upgraded class files for the original control module and upgraded class files for the original service module (see, for example, meta

object database repository 62 and new object class 68 in FIG. 3, and column 6, lines 39-40 and 52-55),

(c) wherein the original control module is upgraded by generating an upgraded control module defining upgraded application-specific policies relative to the original control module (see, for example, column 8, line 55), the upgraded control module being defined by upgraded class files (see, for example, new object class 68 in FIG. 3, and column 6, lines 58-60) loaded from the system repository that is part of the databases (see, for example, meta object database repository 62 in FIG. 3, and column 6, lines 39-40 and 52-55), and wherein the original service module is upgraded by creating an upgraded service module using the upgraded control module (see, for example, column 8, lines 58-62), the upgraded service module is generated using upgraded class files for the upgraded service module loaded from the system repository (see, for example, new object class 68 and meta object database repository 62 in FIG. 3, and column 6, lines 31-34, 52-55 and 58-60), the application providing online execution services when upgrading the original control module and original service module (see, for example, column 4, lines 59-63, which shows that the application provides online execution services when upgrading the modules).

With respect to claim 10 (previously presented), the rejection of claim 8 is incorporated, and the limitations recited in the claim are analogous to those of claim 4 (see the rejection of claim 4 above).

With respect to claim 11 (previously presented), the rejection of claim 10 is incorporated, and the limitations recited in the claim are analogous to those of claim 5 (see the rejection of claim 5 above).

With respect to claim 12 (previously presented), the rejection of claim 8 is incorporated, and the limitations recited in the claim are analogous to those of claim 6 (see the rejection of claim 6 above).

With respect to claim 13 (previously presented), the rejection of claim 12 is incorporated, and the limitations recited in the claim are analogous to those of claim 7 (see the rejection of claim 7 above).

### *Conclusion*

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J. Yigdall whose telephone number is (571) 272-3707. The examiner can normally be reached on Monday through Friday from 7:30am to 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Q. Dam can be reached on (571) 272-3695. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2192

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MY

Michael J. Yigdall  
Examiner  
Art Unit 2192

mjy

  
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SUPERVISORY PATENT EXAMINER